

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DARRIUS REID,

Plaintiff,

-against-

NEW YORK CITY, NEW YORK POLICE DEPT, 5
JOHN DOE POLICE OFFICERS FROM 14TH
PRECINCT,

**DECLARATION OF
BRADFORD C. PATRICK IN
SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS THE COMPLAINT
PURSUANT TO FED. R. CIV.
P. 37(B)(2) AND 41(B)**

Defendants. 07 CV 9788 (PAC)(MHD)

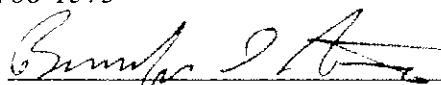
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BRADFORD C. PATRICK, an attorney duly admitted to practice in the State of New York, declares under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following statements are true:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants the City of New York and New York City Police Department. As such, I am familiar with the facts and circumstances of this action. I make this declaration in support of Defendants' Motion to Dismiss the Complaint Pursuant to Rules 37(b)(2) and 41(b) of the Federal Rules of Civil Procedure for plaintiff's failure to prosecute this action.
2. In support of their motion, defendants submit the exhibits described below.

3. Annexed as Exhibit "A" is a copy of the Court's electronic docket sheet in this action.
4. Annexed as Exhibit "B" is an endorsed copy of plaintiff's Application for the Court to Request Counsel dated December 14, 2007.
5. Annexed as Exhibit "C" are copies of envelopes mailed to plaintiff that have been returned to sender dated February 25, 2008, March 11, 2008, April 11, 2008, April 24, 2008 and May 28, 2008.

Dated: New York, New York
June 18, 2008

Michael A. Cardozo
Corporation Counsel of the
City of New York
Attorney for Defendants City of New York and
New York City Police Department
100 Church Street
New York, New York 10007
(212) 788-1575

By: 

Bradford C. Patrick
Assistant Corporation Counsel
Special Federal Litigation Division

To: BY MAIL (Address of Record)
Darrius Reid, #241-07-13328
Plaintiff Pro Se
Northern Infirmary Command
15-00 Hazen St.
East Elmhurst, NY 11370

BY MAIL (Address Obtained from CCRB)
Darrius Reid
Plaintiff Pro Se
427 Baltic St., Apt. 4E
Brooklyn, NY 11217

EXHIBIT A

CASREF, PLRA, PRO-SE

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:07-cv-09788-PAC-MHD

Reid v. City of New York et al
Assigned to: Judge Paul A. Crotty
Referred to: Magistrate Judge Michael H. Dolinger
Demand: \$9,999,000
Cause: 42:1983 Civil Rights Act

Date Filed: 11/05/2007
Jury Demand: Plaintiff
Nature of Suit: 550 Prisoner: Civil
Rights
Jurisdiction: Federal Question

Plaintiff**Darrius Reid**

represented by **Darrius Reid**
241-07-13328
North Infirmary Command
15-00 Hazen Street
East Elmhurst, NY 11370
PRO SE

V.

Defendant**City of New York****Defendant****New York Police Dept.****Defendant****Joe Doe***5 Police Officers from the 14th Precinct*

Date Filed	#	Docket Text
11/05/2007	1	ENDORSEMENT on Declaration in Support of Request to Proceed In Forma Pauperis, I.F.P. REQUEST IS GRANTED. (Signed by Judge Kimba M. Wood on 11/2/07) (kco) (Entered: 11/09/2007)
11/05/2007	2	COMPLAINT against City of New York, New York Police Dept., Joe Doe. Document filed by Darrius Reid.(kco) (Entered: 11/09/2007)
11/05/2007		Magistrate Judge Michael H. Dolinger is so designated. (kco) (Entered: 11/09/2007)
11/05/2007		Case Designated PLRA purs. to Prison Litigation Reform Act Section 7(2)(g) (2). (kco) (Entered: 11/09/2007)

11/14/2007	3	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (including scheduling, discovery, non-dispositive pretrial motions, and settlement) and Dispositive Motion (i.e. motion requiring a Report and Recommendation). Referred to Magistrate Judge Michael H. Dolinger. (Signed by Judge Paul A. Crotty on 11/13/07) Copies Mailed By Chambers.(tro) (Entered: 11/15/2007)
01/03/2008	4	MOTION for an order for the Court to request counsel. Document filed by Darrius Reid.(pl) (Entered: 01/11/2008)
02/13/2008	5	ACKNOWLEDGMENT OF SERVICE of Summons and Complaint. City of New York served on 2/4/2008, answer due 2/24/2008. Service was accepted by Anna Nguyen, Atty. Document filed by Darrius Reid. (djc) (Entered: 02/26/2008)
02/26/2008	6	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Bradford C. Patrick dated 2/25/08 re: Counsel writes to request that the Court grant the within request extending defendants City and NYPD's time to answer or otherwise respond to the complaint until 4/28/08. ENDORSEMENT: Application granted., City of New York answer due 4/28/2008; New York Police Dept. answer due 4/28/2008. (Signed by Magistrate Judge Michael H. Dolinger on 2/26/08) (jco) (Entered: 02/26/2008)
02/28/2008	7	MEMO ENDORSEMENT ON APPLICATION FOR THE COURT TO REQUEST COUNSEL. ENDORSEMENT: This application is denied without prejudice as premature. We cannot grant the relief requested without first determining that there is some potential merit to plaintiff's case. We cannot do so before defendants answer and some discovery takes place. (Signed by Magistrate Judge Michael H. Dolinger on 2/27/08) (dle) (Entered: 02/28/2008)
03/07/2008	8	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED Summons and Complaint served. New York Police Dept. served on 3/4/2008, answer due 3/24/2008. Service was accepted by S. Bonit (clerk). Document filed by Darrius Reid. (dle) (Entered: 03/10/2008)
04/28/2008	9	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Bradford C. Patrick dated 4/24/08 re: Counsel for The City of New York and NYPD request an order compelling plaintiff Darrius Reid to provide the outstanding releases to access plaintiff's medical records and for the unsealing of the underlying criminal records in this action by a date certain on pain of dismissal. Counsel also requests a corresponding thirty-day enlargement of time to answer or otherwise respond to the complaint from the date of defendants' receipt of releases. ENDORSEMENT: Plaintiff is to advise the court and defendants' attorney within two weeks of his current mailing address. The deadline for defendant to respond to the complaint is extended to May 28, 2008. If plaintiff has received the releases mailed to him by defendants, he is to sign and return them by May 18, 2008. If he has not received them, he is to advise defendants' attorney and the court promptly. City of New York answer due 5/28/2008; New York Police Dept. answer due 5/28/2008. (Signed by Magistrate Judge Michael H. Dolinger on 4/25/08) (tro) (Entered: 04/28/2008)

05/23/2008	10	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Bradford C. Patrick dated 5/22/2008 re: Counsel respectfully request that the Court grant the dismissal of this action with prejudice for plaintiff's failure to prosecute this action pursuant to F.R.C.P. 41(b) or, in alternative grant defendants 30 days from receipt of the outstanding releases to answer or otherwise respond to the complaint. ENDORSED ORDER: If defendant's wish to seek dismissal of the complaint they are to proceed by formal method. (Signed by Magistrate Judge Michael H. Dolinger on 5/23/2008) (jfe) Modified on 6/11/2008 (jfe). (Entered: 05/23/2008)
06/02/2008	11	ENDORSED LETTER addressed to Magistrate Judge Michael H. Dolinger from Bradford C. Patrick dated 5/28/08 re: Counsel for the City of New York and the New York City Police Department request that Your Honor endorse the briefing schedule as follows: motion due by 6/18/08; opposition papers, if any, due by 7/16/08; reply papers, if any, due by 7/30/08. In addition, defendants request that their time to answer or otherwise respond to the complaint be stayed pending the disposition of defendants' motion. ENDORSEMENT: Application granted. (Signed by Magistrate Judge Michael H. Dolinger on 5/29/08) (tro) (Entered: 06/02/2008)

PACER Service Center			
Transaction Receipt			
06/12/2008 17:12:49			
PACER Login:	ny0001	Client Code:	Optional for PACER use only
Description:	Docket Report	Search Criteria:	1:07-cv-09788-PAC-MHD
Billable Pages:	2	Cost:	0.16

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKDARRIUS Reid

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

New York City
New York Police Dept
5 Schin Doe Police officers
from 14th Oct

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

1. Name of applicant.

DARRIUS Reid

2. Explain why you feel you need a lawyer in this case. (Use additional paper if necessary)

I am legally BLIND

3. Explain what steps you have taken to find an attorney and with what results. (Use additional paper if necessary)

I am INCARCERATED in
a medical ANNEX and They have
very Limited resources

4. If you need a lawyer who speaks in a language other than English, state what language you speak:

5. I understand that if a lawyer volunteers to represent me and my lawyer learns that I can afford to pay for a lawyer, the lawyer may give this information to the Court.

6. I understand that if my answers on my Request to Proceed *In Forma Pauperis* are false, my case may be dismissed.

7. I declare under penalty of perjury that the foregoing is true and correct.

Dated:

12/14/07Darius Reid
SignatureENDORSED
2/27/08

Rev. 05/2007

M/VGHT
2/27/08

This application is denied without prejudice as premature. We cannot grant the relief requested without first determining that there is some potential merit to plaintiff's case. We cannot do so before defendants answer and some discovery takes place.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Darrius Reid

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

New York City
New York Police Dept
5 John Doe Police Officers

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

07 Civ.9788 ^{PAC} () ()

REQUEST TO PROCEED
IN FORMA PAUPERIS
FOR APPLICATION FOR THE
COURT TO REQUEST COUNSEL

I, Darrius Reid, (print or type your name) am the plaintiff/petitioner in the above entitled case and I hereby request to proceed *in forma pauperis* and without being required to prepay fees or costs or give security. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor, and that I believe I am entitled to redress.

1. If you are presently employed:

- a) give the name and address of your employer
- b) state the amount of your earnings per month

NO

2. If you are NOT PRESENTLY EMPLOYED:

- a) state the date of start and termination of your last employment
- b) state your earnings per month

YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.

Disabled

3. Have you received, within the past twelve months, any money from any source? If so, name the source and the amount of money you received.

stopped due to incarceration

- a) Are you receiving any public benefits? No. Yes, \$ _____.
- b) Do you receive any income from any other source? No. Yes, \$ _____.

4. Do you have any money, including any money in a checking or savings account? If so, how much?

No. Yes, \$ _____.

5. Do you own any apartment, house, or building, stock, bonds, notes, automobiles or other property? If the answer is yes, describe the property and state its approximate value.

No. Yes, _____.

6. Do you pay for rent or for a mortgage? If so, how much each month?

No. Yes, \$ _____.

7. List the person(s) that you pay money to support and the amount you pay each month.

N/A

8. State any special financial circumstances which the Court should consider.

I am incarcerated and legally
Blind

I understand that the Court shall dismiss this case if I give a false answer to any questions in this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 14 day of December, 2007
date month year

Barbara Bent
Signature

EXHIBIT C

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

RTS
JULY 06



NOT HERE - RETURN TO SENDER

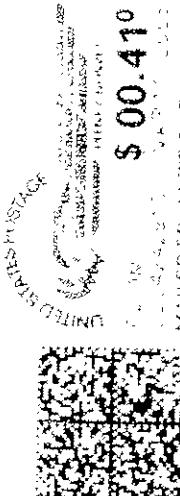
REPARTITION OF CORRECTION

NOT RECD/BL

FOR POLICE & FIRE EMERGENCY ONLY
DIAL 911

Discharge

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007



NOT HERE - RETURN TO SENDER

Discharge
Darius Reid, # 41-07-33328
North Confinmar Command
150 Hazen Street

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007



7003 2260 0005 8673 0018

Darius Reid
427 Baltic St., Apt. 4E
Brooklyn, NY

UNITED STATES POSTAGE
\$ 05.380
MAILED FROM ZIP CODE 10007

44-12-08
17
27

NINE 442 SE 1 38 05/06/08
RETURN TO SENDER
UNCLAS
UNABLE TO FORWARD
BC: 10007121901 40545-10180-11-49
10007@1219

FOR POLICE & FIRE EMERGENCY ONLY
112473263 COIS
DIAL 911

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

NOT FOR RETURN TO SENDER

UNITED STATES POSTAGE
\$ 00.410
MAILED FROM ZIP CODE 10007

REB 6/19/08
S. J.

NOT HERE, RETURN TO SENDER.

Q1S

R.T.S.

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

\$ 00.420

MAILED OR RECD. BY MAIL 10000

R.T.S.

OTHER

RETURN TO SENDER

INSUFFICIENT ADDRESS
ATTEMPTED NOT KNOWN
ATTEMPTED NUMBER AS ADDRESSED
NO SUCH NUMBER AS ADDRESSED
NOT DELIVERABLE FORWARD
UNABLE TO FORWARD

A
B
C
S
5-00
East

FOR POLICE & FIRE EMERGENCY ONLY
DIAL 911

1-800-222-1234 88822